REMARKS

Claims 1-5 are pending. Applicants request reconsideration of the Examiner's decision in view of the following remarks. Allowance of all pending claims is respectfully requested.

Rejections Under 35 U.S.C. § 101

Claim 1 stands rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. The Examiner has taken the position that Applicants' invention, as defined by claim 1, is a "business method" and a "computer claim." Thus, the Examiner states that this claim "should be treated like any other process claim." The Examiner rejects the claim as non-statutory because the claim does not recite a process.

Applicants respectfully disagree with the Examiner's position, as the Examiner appears to have incorrectly relied on his position that claim 1 is a "process claim" in formulating his opinions. Applicants' closing package, as defined by claim 1, comprises a device or "package" which may be a machine, a product of manufacture, or a composition of matter. As the Examiner is aware, 35 U.S.C. § 101 defines four categories of invention that Congress deemed to be appropriate subject matter of a patent: processes, machines, manufacture, and compositions of matter. As explained in the recently published "Interim Guideline for Examination of Patent Applications for Patent Subject Matter Eligibility" (October 2005) (which are used by Examiners in determining whether the subject matter, as claimed, is eligible for patent protection), the later three categories referenced above define "things" or "products", as opposed to actions. See Pages 12-13. The only exceptions or exclusions are abstract ideas, laws of nature and natural phenomenon. As can be understood from Applicants' claim and from the disclosure, Applicants' closing package is a product or thing, not an abstract idea, law of nature or natural phenomenon. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claim 1 under § 101.

The Examiner also takes the position that claims 2-5 are directed to non-statutory subject matter under 35 U.S.C. § 101 because these method claims "do not claim a technological basis in

the pre-amble and the body of the claims." Specifically, the Examiner argues that the preamble and the body of the claims do not indicate that the claims are within the technological arts.

In the recent precedential *Ex Parte* Lundgren decision, the Board of Patent Appeals and Interferences held that there is no separate "technological arts" test for determining whether the claimed process amounts to statutory subject matter under § 101. *Ex Parte* Lundgren, 76 USPQ2d 1385 (BPAI 2005). In the present case, the Examiner has applied the "technological arts" test to reject the claims. As this test no longer is proper, Applicants request reconsideration and withdrawal of the rejection of claims 2-5 under § 101.

Rejections under 35 U.S.C. §103

Claim 1 stands rejected under 35 U.S.C. § 103(a) as obvious over Lewis et al., U.S. Patent App. Pub. 2002/0029194.

Lewis discloses a process for performing an on-line secure transaction. The system is contemplated to use various information, laws, and rules to assemble and gather documents necessary for a closing. However, a closing as provided in Lewis appears to include multiple participants (lawyers, escrow agents, title company representatives, etc.) who each must act to complete this transaction. Additionally, according to Lewis, the relevant transaction occurs on-line. Thus, the only apparent difference from a traditional closing is that each participant conducts his or her closing activity on-line. Therefore, Lewis appears to have taken the traditional closing process and placed same online.

Claim 1 of the instant application teaches a closing package for a mortgage loan comprising closing documents to be executed by a customer; at least one document comprising instructions providing guidance to the customer for completing and executing the closing documents in the absence of a meeting, the instructions comprising a check-list of steps for the customer's guidance and steps for notary's guidance in the completion and execution of the closing documents; and at least one document comprising of plurality of acknowledgments, agreements, and disclosures accommodating variations and legal requirements relating to the closing documents.

As admitted by the Examiner, Lewis does not teach the use of instructions providing guidance to the customer for completing and executing the closing documents which comprises a check-list of steps for the customer's guidance and steps for a notary's guidance in the completion and execution of the closing documents. However, the Examiner, takes the position that Applicants' claim is obvious in view of what is "old and well known in the art".

Lewis does not teach or suggest the combination of features as provided in claim 1. Applicants remind the Examiner that the suggestion or motivation to combine particular references must come from the references themselves. See MPEP § 2143.01. Furthermore, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re* Mills, 916 F.2d 680 (Fed. Cir. 1290). Even though a device may be "capable" of being modified to "run" the way the device is claimed, there must be a motivation or suggestion in the reference to do so. Id. at 682. The Examiner claims that "in many complex financial transactions, particularly those involving electronic commerce technologies, it is common to have accompanying read-me files or other media that lay out instructions for completing important tasks." The Examiner, therefore, claims to take official notice of this statement and relies on same to attempt to show that claim 1 is obvious.

Applicants respectfully disagree with the Examiner, as complex financial transactions do not commonly use simple "read-me" files for completing the transaction. In fact, the very nature of a "complex financial transaction" appears contrary to this understanding, as the complexity itself typically requires the involvement of those with the relevant expertise to explain and guide others through the process.

Mortgage transactions typically occur in the form of a meeting in the presence of multiple parties which parties are available to explain and answer questions regarding the process and the documents involved. See Paragraph [0019] of Applicants' disclosure. This is illustrated by Lewis, which requires the participation of multiple parties, *i.e.*, lawyers, banks, title companies, etc. See Paragraph [0046]. As can be understood from Applicants' disclosure on pages 3-10, paragraphs [0008] – [0021], due to the complexity of the mortgage process, it has not been

possible to simplify the traditional mortgage refinancing process in a manner that would likely permit the use of "read-me" files as the Examiner suggests.

Lewis illustrates that a meeting and participation by all parties is required for the closing process. Thus, the relevant "experts" are available to explain the transaction. This, likewise, does not correlate to a simple read-me file or other media as the Examiner suggests. While we do not dispute that simple transactions in computerized processes may include read-me files which have certain instructions, this is not the case with mortgages or the refinancing process.

Thus, there is no suggestion or motivation in Lewis or commonly known to the art to set forth the combination of features in claim 1. Further, Lewis does not teach or suggest all of the features of claim 1 as identified by the Examiner. In view of the foregoing, Applicants request that the Examiner provide documentary evidence dated prior to Applicants' filing date in support of the Examiner's position that shows the use of read-me files in connection with the refinancing of a mortgage, upon which the Examiner bases his position regarding "well-known" art and his rejection, as well as the appropriate motivation to combine same to show the specific features of claim 1. In the absence of same, Applicant requests withdrawal of the § 103 rejection of claim 1.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as obvious over Brody et al., U.S. Patent App. Pub. 2002/0077964 in view of Lewis.

The teachings of Lewis are discussed above.

Brody teaches a system of providing consumers with credit information. The Brody system also provides a consumer with the option to obtain pre-approved offers. According to the disclosure, an on-line system is provided for obtaining credit information that, in the same location, provides certain pre-approved offers. The customer may select the types of pre-approved offers he or she would like to receive.

Claim 2 of the instant application covers a method of refinancing a mortgage loan comprising: pre-approving a customer for refinancing of a mortgage loan; sending an offer for refinancing to the customer, the offer comprising materials setting forth terms of the refinanced mortgage loan, materials providing pre-acceptance disclosures and conditions, and instructions

describing how the customer may accept the offer; at least one of the terms of the refinanced mortgage loan comprising a specific, locked interest rate; receiving an indication of acceptance of the offer from the customer; and sending a closing package to the customer to be executed by the customer, the closing package comprising closing documents to be executed by the customer, at least one document comprising instructions providing guidance to the customer for completing and executing the closing documents in the absence of a meeting, the instructions comprising a checklist of steps for the customer's guidance and steps for a notary's guidance in the completion and execution of the closing documents, and at least one document comprising a plurality of acknowledgements, agreements, and disclosures accommodating variations in legal requirements relating to the closing documents, the execution of the closing documents by the customer creating a refinancing loan agreement.

Applicants respectfully submit that the Examiner has not set forth all the elements of a *prima facie* case of obviousness under 35 U.S.C. § 103. Under *In re* Oetiker, if the examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the Applicants are entitled to grant of the patent. *In re* Oetiker, 977 F.2d 1443, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

As the Examiner is aware, to establish a *prima facie* case, three basic criteria must be met: (1) there must be some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art references must teach or suggest all the claim limitations. MPEP § 2143. Furthermore, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. MPEP § 2143 (citing *In re* Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

To summarize the Examiner's contentions for purposes of illustration, the Examiner claims that Brody teaches pre-approving a customer for refinancing of a mortgage loan and sending an offer for refinancing to the customer. The Examiner further argues that the claim language which details the offer comprises non-functional descriptive material and is therefore obvious. The Examiner also contends that Brody teaches receiving an indication of acceptance

of an offer from a customer. The Examiner then relies on Lewis to argue that sending a closing package to a customer is shown. Finally, with respect to the remainder of the language related to the closing package, the Examiner claims that this language, comprises "non-functional descriptive" material and, is thus, obvious.

A review of the Examiner's position with respect to claim 2 reveals that the Examiner has segregated Applicants' claim into multiple parts and then relied on separate references and the Examiner's personal opinion with respect to the "descriptive" nature of the claim language to attempt to piece together the elements of Applicants' claim, using Applicants' claim as a guide. In other words, the Examiner has used claim 2 as an instruction manual to find what the Examiner believes is appropriate prior art that might render the claim obvious. In formulating the rejection in this manner, the Examiner has not provided the necessary suggestion or motivation to combine the various prior art references.

The ultimate issue is whether it would have been obvious to combine the references without having access to the application that is under examination to arrive at the claimed invention. See Lear Siegler, Inc. v. Aeroquip Corp., 733 F.2d 881, 221 USPQ 1025, 1033 (Fed. Cir. 1984). Thus, it is not appropriate for the Examiner to merely focus on the differences between the prior art and the claimed invention, and then to state that the differences themselves or individually are obvious as the Examiner has done in this case. This is impermissible as the Examiner relies on hindsight in view of Applicants' disclosure and claim to attempt to show same is obvious. Furthermore, Applicants remind the Examiner that the claim must be examined as a whole.

Referring, specifically, to the contentions raised in the Office Action, the Examiner relies on Paragraphs [0011] – [0013], [0015] & [0068] of Brody to show certain features of claim 2. Paragraph [0011] specifically describes a method of providing one or more preapproved offers to a consumer based upon credit related information of the consumer. The method includes creating an account with the consumer, transmitting to a credit bureau an inquiry for credit history data relating to the consumer, receiving credit history data on the consumer in response to the inquiry, and selecting a preapproved offer from a plurality of offers from multiple merchants based at least partially on the credit history data of the consumer. Paragraph [0012] discusses

displaying selectable items on a web page viewable by a Web browser interface. Paragraph [0013] discusses presenting a preapproved offer that can include presenting an offer for acceptance by the consumer wherein the offer is anonymously preapproved based upon a comparison of credit history data and criteria provided by the merchant. In other words, the Brody system selects and presents an offer, not the merchant. Paragraph [0015] discloses a method that includes receiving consumer data records from a plurality of databases, selecting for the consumer at least one preapproved offer based upon at least one consumer data record, and sending a web-based representation of the preapproved offer to the consumer. Paragraph [0068] discloses the preapproved offer functions performed by the system and method of Brody. Namely, after a consumer has been authenticated (*i.e.*, accesses a web-based system using, for example, a password), and a consumer profile has been created for that consumer, the consumer can select a number of options via a graphical user interface. One of the options the consumer may select is preapproved offers, which offers can be selected via a button located on a web page. The Examiner further relies on Paragraph [0016] of Brody to show different features of claim 2. Paragraph [0016] identifies that an offer acceptance may be received from the consumer in response to the representation of the preapproved offer by the system.

No downstream processing, such as the closing of a mortgage loan, appears to be provided in Brody. Thus, one of ordinary skill in the art would understand that once a preapproved offer is accepted in Brody, the process would proceed according to a traditional process. Thus, if a mortgage loan were offered, it would proceed according to the traditional mortgage origination and closing processes.

It is important to note that the purpose of the preapproved credit offers, according to the disclosure of Brody, is to offer consumers an exhaustive list of merchant offers from which the user may wish to except preapproved offers. The system and method of Brody receives offer criteria for merchants, receives customer credit information corresponding to the offer criteria and determines offers which each consumer is preapproved in a manner that consumers may anonymously receive preapproved offers from a plurality of merchants. In other words, the consumer selects, and is presented with, a number of preapproved offers which the consumer has authorized. Furthermore, the consumer must log into a website to receive these offers.

As explained by Brody, consumers access the system of Brody, themselves, via an Internet connection. The user also chooses which preapproved offers it would like to receive. *See Paragraph [0051] & Paragraph [0068]*. Likewise, as shown in Paragraph [0073], each consumer requesting preapproved offers can be analyzed with respect to multiple merchants. Therefore, a consumer that would like to receive offers receives offers from a plurality of companies, each offering a consumer a preapproved offer having varying rates. The number and variety of offers enables the consumer to choose the offer that will best suit the consumer. Furthermore, the preferred manner of displaying the preapproved offers is a website-based representation of same. *See Paragraph [0075]*. Thus, Brody teaches a user-initiated system, whereby users can elect to receive certain pre-approved offers from various merchants online.

In addition to Brody, the Examiner relies on Page 18, claim 23 and Paragraph [0004] of Lewis to show certain features of claim 2. Claim 23, page 18, covers a method of facilitating a property transaction among a plurality of participants including: storing various information, accepting input of information regarding a transaction and its participants; correlating the input of information regarding the transaction and its participants with the stored information; and presenting to the participants terms of the transaction and documents required for the transaction through an electronic network based upon the input information. Similarly, Paragraph [0004] generically describes a traditional real estate transaction closing. As clearly set forth in that paragraph, as well as claim 23, multiple participants and individuals are involved in the closing. Further, as shown in Paragraph [0007] of Lewis, at the closing the parties review and execute various documents along with several other tasks that are accomplished by multiple participants. Referring to Paragraph [0026], when the data selected to complete the transaction is obtained, all participants gather in one physical location or virtually, via an electronic network, or alternatively the participants may choose not to gather but to take each action separately online. Likewise, Paragraph [0028] identifies that the system contemplates multiple jurisdictions and participants. The participants review the details and documents of the transactions and execute of the relevant documents. As identified in Paragraph [0046] of Lewis, all participants, such as lawyers, banks, title companies, etc., will retain their roles in using this system. *See also Paragraph [0069]*. Accordingly, while Lewis references a closing, this closing includes

multiple participants that must act together to complete the transaction. In other words, Lewis has transplanted the traditional closing to an online location.

It does not appear that Lewis discloses a preapproval process, sending an offer, or receiving an acceptance of an offer for mortgage refinancing from a customer. Therefore, one of ordinary skill in the art would understand that Lewis undergoes a traditional mortgage origination process.

As indicated, the motivation or suggestion to combine references must come from the references as a whole. In this case, this motivation or suggestion does not exist. Brody, as a whole, suggests a system whereby users can enter a website and opt to receive a plurality of pre-approved offers from various marketers so that the user can select the best priced item. Lewis discusses a process for performing an online secure transaction, and specifically a closing. Thus, Lewis, at best, suggests closing an online financial transaction. It would not be desirable to combine the "opt-in" program for receiving solicitations of Brody with the closing of an online secure transaction of Lewis to show the claimed invention is obvious. Those of ordinary skill in the art would not have known or considered it desirable to combine Brody, as a whole, with Lewis, as a whole, to show the combination of elements in claim 2 in the absence of Applicants' disclosure and claim as is required. See MPEP § 2143.

It is impermissible for the Examiner to use the application itself as the basis or reason for formulating the obviousness rejection. *In re* Fritch, 972 F.2d 1260, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). In addition to the above, the Examiner claims that the motivation for his combination of references would be to help ease problems related to multiple inquiries on a credit report and to make the process a one step process rather than several steps. Further, the Examiner claims that there would be benefits to streamlining the process down to a simpler form. As stated in Applicants' disclosure, the method of refinancing a mortgage loan is streamlined in comparison to traditional methods of refinancing. *See Paragraph [0063]*. Particularly, the disclosure states that Applicants' method reduces the number of steps required for the customer to complete the refinancing process. *Id.* As described in Paragraphs [0066] and [0067] of Applicants' disclosure, the streamlined pre-approval and closing process of Applicants' method significantly reduces the amount of work for the customer and is also beneficial to the lender.

Accordingly, it is believed that the Examiner's motivation to combine references is obtained from Applicants' disclosure. This is impermissible.

As alluded to above, there must also be some reasonable expectation of success for the suggested combination. See *In re* Dow Chem. Co., 837 F.2d 469, 473, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988). As explained in Applicants' disclosure, Paragraphs [0007] – [0021] typical mortgage / refinancing processes include many steps and many individuals and/or entities working together to complete the process. As indicated, due to the numerous steps involved and items to review, the mortgage origination and approval process for traditional refinancing processes takes several days, if not several weeks to complete. Furthermore, considering that numerous documents must be provided to the lender from both the customer and vendors, the processing of an application to refinance is commonly very paper intensive, and thus time consuming. *See Paragraph [0015]*. Moreover, as described in Paragraph [0018] of Applicants' disclosure, the numerous and lengthy closing documents are traditionally placed together in a file. Each individual closing document is then presented to the customer for review and execution during the closing. The closing takes place by a meeting between at least the customer and the loan officer, an attorney, or a closing agent at a particular location. These documents are lengthy, complex, and confusing, often taking a significant amount of time to read, understand, execute and have notarized. *See Paragraph [0019]*. Thus, it is generally understood that a refinancing or mortgage origination process in a traditional setting involves multiple steps and participants as is the case in Lewis. Contrary to this understanding, Applicants' process, as defined by claim 2, simplifies the process, reduces the number of steps, and reduces the number of participants. For the foregoing reasons, there is no reasonable expectation that Lewis and Brody can be combined to successfully show the combination of features of Applicants' process as shown in claim 2.

The Examiner also contends that certain differences not shown in Brody or Lewis are non-functional descriptive material and not functionally involved in the steps recited. Contrary to the Examiner's contention, each step comprises a part of the overall streamlined process, in that they provide a means for a streamlined offer that results in a closing package which, when executed, forms the referenced loan agreement. See claim 2. Namely, an offer containing the specific features identified in the claim, sets up for the ability to close the mortgage loan in an

efficient manner using the closing package which is sent to the customer and executed by the customer to form the agreement. Applicants refer the Examiner to pages 20-22, Paragraph [0063] – [0067] of its disclosure which describes same. Accordingly, this "descriptive material" is functionally related to the "substrate," namely, the respective offer and closing package. See In re Gulack, 703 F.2d 1381, 1385 (Fed. Cir. 1983). Thus, the features noted by the Examiner comprise functional pieces of the overall process and are not considered non-functional descriptive material.

Accordingly, the cited references, considered as a whole, do not teach or suggest all the features of claim 2. Applicants' method cannot be considered obvious in light of these references, and for the reasons set forth hereinabove, is patentably distinct from these references. Accordingly, Applicants respectfully request that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of claim 2.

Claim 3 stands rejected under 35 U.S.C. § 103(a) as obvious over Brody et al. in view of Lewis.

The teachings of Brody and Lewis are discussed above.

Claim 3 covers a method of refinancing a mortgage loan comprising: pre-approving a customer for refinancing of a mortgage loan; sending an offer for refinancing to the customer, the offer comprising materials setting forth terms of the refinanced mortgage loan, materials providing pre-acceptance disclosures and conditions, and instructions describing how the customer may accept the offer; at least one of the terms of the refinanced mortgage loan comprising a specific, locked interest rate; receiving an indication of acceptance of the offer from the customer; and sending a closing package to the customer to be executed by the customer, the closing package comprising closing documents to be executed by the customer, at least one document comprising instructions providing guidance to the customer for completing and executing the closing documents in the absence of a meeting, the execution of the closing documents by the customer creating a refinancing loan agreement.

The Examiner's reasoning with respect to claim 2 has also been applied to claim 3. As explained in detail hereinabove, the Examiner has not set forth a *prima facie* case that this claim

is obvious. For the foregoing reasons, the references cannot be combined, nor is there a suggestion or motivation to combine same, to show that claim 3 is obvious. Furthermore, the cited references, considered as a whole, do not teach or suggest all the claim limitations as provided in claim 3. In view of the foregoing, Applicants' method cannot be considered obvious in light of these references, and for the reasons set forth hereinabove, is patentably distinct from these references. Accordingly, Applicants respectfully request that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of claim 3.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as obvious over Brody et al. in view of Lewis.

The teachings of Brody and Lewis are discussed above.

Claim 4 teaches a method of refinancing a mortgage loan comprising: pre-approving a customer for refinancing of a mortgage loan; sending an offer for refinancing to the customer, the offer comprising materials setting forth terms of the refinanced mortgage loan, materials providing pre-acceptance disclosures, and instructions describing how the customer may accept the offer; at least one of the terms of the refinanced mortgage loan comprising an interest rate and a term length; receiving an indication of acceptance of the offer from the customer; and sending a closing package to the customer to be executed by the customer, the closing package comprising closing documents to be executed by the customer, at least one document comprising instructions providing guidance to the customer for completing and executing the closing documents in the absence of a meeting, the execution of the closing documents by the customer creating a refinancing loan agreement.

The Examiner sets forth the same reasons for rejection as provided in claims 2 and 3. The Examiner contends that the only distinction between claim 4 is found in the "descriptive material."

As set forth hereinabove, the Examiner has not presented a *prima facie* case of obviousness. The cited references, considered as a whole, do not teach or suggest all the claim elements, nor is there a motivation or suggestion to combine the references to show that claim 4 is obvious. Furthermore, contrary to the Examiner's contention, language related to the offer

consists of material functionally related to the substrate, in this case, the offer of the claim, which sets up the process to proceed as defined by the elements of the claim. The specific interest rate and specific term length constitute an integral, functional part of the offer provided in combination with the process. Namely, the specific interest rate and term length assist the lender in sending the closing package for execution as set forth in the claim. *See Paragraph [0066] of Applicants' disclosure.*

For the reasons set forth hereinabove, the Examiner has not shown that there is a motivation or suggestion in the references themselves to combine Lewis and Brody to show claim 4 is obvious; nor has the Examiner shown that there is a likelihood of success based upon this combination; or that the references can be combined to show all the features of claim 4. Applicants' method, therefore, cannot be considered obvious in light of the references set forth by the Examiner, and for the reasons set forth hereinabove, is patentably distinct from these references. Accordingly, Applicants respectfully request that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of claim 4.

Claim 5 stands rejected under 35 U.S.C. § 103(a) as obvious over Brody et al. in view of Lewis.

The teachings of Brody and Lewis are discussed above.

Claim 5 covers a method of refinancing a mortgage loan comprising: receiving a request to refinance a mortgage loan from a customer; communicating an offer for said refinancing to said customer, said offer comprising materials setting forth terms of said refinanced mortgage loan, materials providing pre-acceptance disclosures, and instructions describing how the customer may accept the offer; at least one of the terms of the refinanced mortgage loan comprising a specific interest rate and a specific term length; receiving an indication of acceptance of the offer from the customer; and sending a closing package to the customer to be executed by the customer, the closing package comprising closing documents to be executed by the customer, at least one document comprising instructions providing guidance to the customer for completing and executing the closing documents in the absence of a meeting, the instructions comprising a checklist of steps for the customer's guidance and steps for a notary's guidance in the completion and execution of the closing documents, and at least one document comprising a

plurality of acknowledgements, agreements, and disclosures accommodating variations in legal requirements relating to the closing documents, the execution of the closing documents by the customer creating a refinancing loan agreement.

With respect to claim 5, the Examiner contends that the only distinction between this claim and claim 2 is that a request for financing initiates the refinancing process rather than a pre-approval step. The Examiner relies on the same analysis as used for claim 2 and contends that the noted distinction is "old and well known in the art." Further, the Examiner contends Brody discloses that "potential approvalees are allowed to opt in or opt out of the pre-approval process, allowing the consumer to initiate the process."

The cited references, considered as a whole, do not teach or suggest all the claim limitations. While Applicants' do not dispute that it is common for individuals to request a loan or a mortgage in a traditional process, Applicants respectfully submit that prior art cited by the Examiner does not teach the combination of elements as set forth in claim 5. Again, Applicants remind the Examiner that it is not permissible to use Applicants' claim as a guide to pick and choose various references that the Examiner contends show the particular claimed elements as has been done in this case. For the reasons set forth with respect to claim 2, the Examiner has not set forth a *prima facie* case of obviousness. The Examiner has not shown that the references can be combined, or that in considering the references as a whole, a motivation of suggestion exists to combine the references to show all the features of claim 5. Likewise, for the reasons set forth above, these references cannot be combined with a likelihood of success to arrive at the claimed conclusion. Finally, as illustrated above, the combined references do not teach or suggest all of the claim elements. Applicants' process as defined by claim 5, therefore, cannot be considered obvious in light of these references, and for the reasons set forth hereinabove, is patentably distinct from these references. Accordingly, Applicants respectfully request that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of Claim 5.

CONCLUSION

Accordingly, Applicants respectfully submit that the device and method claimed by the instant application contains novel properties not disclosed by the prior art references, and that

independent claims 1-5 are not obvious over the cited references. Accordingly, withdrawal of the Examiner's rejections is respectfully requested.

In view of the above remarks, it is respectfully submitted that this Application is in condition for allowance and such action is earnestly solicited. However, should the Examiner have any further point of objection, the Examiner is urged to contact the undersigned so that a mutual agreement with respect to claim limitations can be reached.

Respectfully submitted,

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